NORTHEAST BIOFUELS COLLABORATIVE

NEW FUELS ALLIANCE

October 15, 2008

Philip Giudice, Commissioner
MA Department of Energy Resources
100 Cambridge Street
Boston, MA 02114

Filed via electronic mail: Green.Communities@MassMail.State.MA.US

RE: Renewable Portfolio Standard (RPS) Class I/Class II Regulations

Dear Commissioner Giudice,

In accordance with Chapter 169 of the Acts of 2008 ("Green Communities Act"), the Northeast Biofuels Collaborative (NEBC) respectfully submits the following comments for consideration by the MA Department of Energy Resources (DOER).

As you know, the General Court took action on several matters that are in large part designed to catalyze the further development of the Massachusetts clean tech sector. As an overriding and general comment, we encourage DOER to recognize and enhance the synergies among these critical pieces of legislation, including the Clean Energy Biofuels Act, Global Warming Solutions Act, Green Communities Act, and Green Jobs Act.

In regard to Class I/II regulations of the recently updated RPS, we strongly encourage DOER to allow bio-based diesel and other liquid biofuels to fully participate in the RPS, as intended by the Green Communities Act. We also recommend that DOER refer to the definitions as contained in the MA Clean Energy Biofuels Bill and the federal Energy Independence and Security Act of 2007 when the agency deliberates about the criteria for specified eligible liquid biofuels. With regard to the specific climate protections contained in these new laws, DOER should ensure that biofuels used under the amended RPS have climate benefits. Importantly, any provisions adopted to this end must not act as a market barrier for biofuels, particularly for those fuels with moderate climate benefits that are available in the immediate term.

There is one provision in the new RPS legislation that is critical to the development of the biofuels industry. The list of RPS-eligible renewable energy generating sources excludes liquid biofuel, unless it is combined with *low emission advanced biomass power conversion technologies.* As such, bio-based diesel and liquid biofuels are linked to other forms of solid biomass that have been restricted by the phrase *low emission advanced biomass power conversion technologies* since the inception of the RPS. Put another way, in order to utilize biofuels and gain credit under the program, companies must also invest in advanced conversion technology. This additional compliance hurdle could prove onerous for potential biofuel users, and at minimum, should be based on sound public policy rationale. Unfortunately, this does not appear to be the case.

The RPS was originally created to encourage the addition of renewable energy sources in the Commonwealth that would displace an increasing percentage of the electricity demand that was met by facilities burning fossil fuels. Companies that were already providing renewable energy using solid biomass were attempting to receive additional renewable energy credits through the RPS. Initially, the Biomass Retooling Guide allowed existing biomass plants to make a slight change in technology and become a "new" renewable energy source. In October 2005, DOER recognized this issue and stated that technology changes to existing renewable facilities did not add additional megawatts of renewable energy to the grid; rather, it just altered the method of delivery for existing megawatts. The determination was made that the intent of the RPS was to encourage the addition of "new" renewable energy sources, and not to give credit for altering existing sources. So, DOER defined "low emission advanced biomass conversion technology" and then specifically stated that it only applied to wood-fired or other solid-fueled boilers.

> *"DOER has concluded, both from its own internal review and from its review of the NOI Comments, that the clear intent of M.G.L. c. 25A, sec. 11F is to stimulate development of "new" renewable energy generating sources with intended benefits including fuel diversity and price stability, as well as*

> *environmental and economic benefits. An obvious consequence of the Biomass Retooling Guideline is that the same facility (with some retrofitted equipment) would consume the same amount of renewable fuel before and after 1/1/98 to produce the same amount of power: thus, it would contribute no additional renewable electricity to the grid. DOER agrees with the observation made by Ridgewood Renewable Power: . . .*
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> > *while [the application of the Guideline] may increase the amount of eligible renewable generation, it does not increase at all the renewable generation in the NEPOOL region."* Oct. 27, 2005
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> *"However, it is important to note that this [2007] Guideline provides low emissions specifications only for Units that use wood-fired and other solid-fueled steam boilers."* Nov. 7, 2007

There is a crucial difference between bio-based diesel/liquid biofuels and the biomass plants to which the low emission advanced biomass conversion technology has historically been applied. The reason existing biomass plants were not given renewable energy source status is because DOER recognized that these facilities were changing existing renewable energy megawatts and not *adding* new renewable energy megawatts to the electricity grid. In other words, they were getting credit for replacing biomass power generation with largely the equivalent biomass power generation. Co-firing bio-based diesel and liquid biofuels with fossil fuels, on the other hand, *adds* new megawatts of renewable energy to the grid by displacing fossil fuels from the power production process. So, companies would be getting credit for replacing fossil fuels with renewable fuels, even without adding advanced conversion technology.

As recently as February of this year, DOER indicated that biodiesel needs to be part of the RPS picture:

> *"The promulgation of revised RPS regulations in October of 2007 should provide added stimulus to the development of new renewable energy sources over the near term, especially plants that co-fire biomass with fossil fuels (including blended biodiesel)."* *Feb. 15, 2008*

A critical phrase in this statement is "near term". Wind power, solar technologies and other renewable energy projects are essential for cutting emissions and reducing fossil fuel dependence. However, the reality is that many of these projects require time and capital investment. When considering the current national and global economic crisis, it is unfortunately plausible that it will take longer for these technologies to make a significant impact on electricity demand in Massachusetts. Conversely, co-firing bio-based diesel requires little additional capital investment, can be implemented quickly, and can have the immediate real-world impact of cutting emissions and reducing our dependence on oil by using clean, renewable and domestically-produced fuels. The additional requirement to couple biofuel use with an advanced technology investment requirement directly undercuts the value of biofuel to reduce fossil fuel combustion in the near term, in that it can be achieved without prohibitive front-end cost.

We urge the agency to consider the impacts of applying emission standards to an entire facility that is co-firing eligible and ineligible fuels. Current low-emission eligibility regulations include the "entire Generation Unit" for facilities that co-fire. Since the RPS regulates retail electricity companies and not power producers, power plants can continue to burn fossil fuel if they choose to, and without an incentive to switch to cleaner burning fuels, they will not likely do so. Accordingly, we recommend that if DOER establishes an emission standard for co-firing, it do so on the basis of the renewable biofuel used, and not the entire generation unit. To do otherwise would result in significant lost emission reduction opportunities from many of the dirtiest fossil fuel units producing power for Massachusetts residents and businesses.

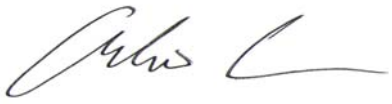
We urge DOER to consider that there are local projects in the pipeline to produce bio-based diesel in the Commonwealth. Regulations that, in effect, suppress the demand for biofuels, endanger projects that could increase our use of new renewable energy.

Also, as a side note, we are aware of the current debate surrounding biofuels. As you know, technologies improve over time, as is being demonstrated in fuel cells, wind, solar and biofuels. The question is not *if* Massachusetts should promote biofuels, but rather how *should* policymakers and regulators require the use of the best-suited alternative fuels for this region. This was clearly demonstrated by the passage of the Clean Energy Biofuels Act. Further, if DOER has concerns about lifecycle greenhouse gas emissions, U.S. EPA will soon have a model that will test fuels for carbon impacts. This model will complement the extensive GHG modeling and analysis of biofuels from U.S. DOE, USDA and other leading researchers. We encourage DOER to utilize these resources.

In sum, power producers should receive credit for using renewable biofuels to replace a portion of oil that is currently being used to produce power in the state. We support many of the technologies that are included in the RPS, yet recognize that some will take time and investment to put in place. In the meantime, the meaningful inclusion of bio-based diesel and other liquid biofuels in the RPS could bring immediate environmental benefits.

We appreciate the opportunity to comment on these important matters and would be happy to discuss any questions you or your staff may have.

Sincerely,



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